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September 19, 2002

HAND DELIVERY

Herbert W. A. Thiele, Esquire  
Leon County Attorney  
300 South Monroe Street, Room 207  
Tallahassee, FL 32301

Dear Herb:

**Re: Agenda Item No. 27 from July 10, 2001; Consideration of Further Changes for Requirements of Legal Access Contained in the Leon County Code of Laws; Hollis Glenn Matter**

As I recently indicated to you in the County Commission Chambers, the action by the Leon County Board of County Commissioners on July 10, 2001, directing that the proposed changes to Section 10-1527(a) of the Leon County Code of Laws, which requires legal access to every parcel to be developed, be reviewed for consistency by the Tallahassee/Leon County Planning Commission, never has been completed. After that meeting, your office did transmit the proposed amendment to the Tallahassee/Leon County Planning Department, which advertised the matter for public hearing before the Tallahassee/Leon County Planning Commission for last fall. I recently learned that the presentation to the Planning Commission included a representation that the County Attorney's Office did not concur with the Board's direction, and the Planning Commissioners appeared to have received, at best, an incomplete presentation of the underlying problems flowing from the present requirement. The end result was that the Planning Commission continued the item until November 5, 2002, at the request of the Planning Director (who has since resigned), in order to give your office time "to work out some new language" for the proposed amendment. As you know, the senior assistant county attorney who presented this matter to the Planning Commission last year has now also left your office. I am attaching a copy of the minutes from the Planning Commission (voting) meeting of September 19, 2001, confirming the above-described events before the Planning Commission.

When I obtained this information from the Planning Department records, Jean Gregory advised me that no new language was submitted for the November 5, 2001, meeting, and that therefore nothing appeared on the Planning Commission agenda for that day on this subject. Because it was not taken up at the noticed time, she indicated it would be the Planning Department's position, with which I suggest we would both agree, that the Planning Department would need to re-advertise to take up for discussion and decision the consistency review under the Comp Plan of this amendment to the Code of Laws. She said that your office would have to initiate the request, which she assumed would be in the form of providing new language. I told her that the proposed language might be fine, if the explanation to the Planning Commission clearly describes the impacts that follow the failure of a parcel to meet the presently required legal access test. She understood that might be the case, and I leave that determination to you.

Mr. Thiele

September 19, 2002

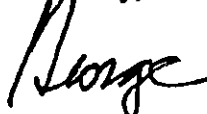
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Mrs. Gregory also explained that at the time the Planning Commission undertook this discussion, the members were wrestling with the Planning Commission's authorized or appropriate responses to consistency reviews. This is partially reflected in the Planning Commission minutes, with references to whether the Commission is limited to finding a proposed ordinance or amendment to an ordinance as either "consistent" or "not consistent," when in fact the Comp Plan often may be silent on the subject matter being considered in a proposed ordinance. That, of course, is the situation with respect to the proposed amendments to the legal access section in which we are involved in this case. I understand that the Planning Commission has now started also using the designation of "not inconsistent" in cases in which the Comp Plan is either silent or in which it has no required effect on an issue. That should remove one of the hurdles that the Planning Commission felt it had to leap when the legal access ordinance change was first presented to that Commission last year.

I am partially at fault in allowing this matter to lie dormant for a while. My client, Mr. Hollis Glenn, is still very interested in whether he can utilize his parcel near Miccosukee, which continues to have no means that I have been able to ascertain to meet the County's legal access test reflected in the current provisions of § 10-1527. He has been much more patient than any of us has any reason to have asked. I hope that you will agree to present the matter quickly to the Planning Commission again, whether in the originally proposed form adopted by the Board on July 10, 2001, or in any revised manner that otherwise accomplishes the function of relaxing the legal access requirement sufficiently to provide relief in Mr. Glenn's case. If I can assist in the process of restarting the steps before the Planning Commission, please let me know in what respects. If you have suggestions for alternative solutions, I shall be available to consider your proposals.

Please let me know in the near future how you plan to address this issue. For convenience, I am attaching a copy of the language I proposed at the July 10, 2001, BCC meeting, which the minutes reflect the Board adopted as the language it wanted the Planning Commission to consider. A copy of the minutes from the Clerk's Web page pertaining to that agenda item No. 27 is also included. Mr. Glenn, as I am certain you will appreciate, seconds the Board's direction that this matter be brought back to it "at the earliest public hearing."

Sincerely,



George E. Lewis II

GELII/II

Enc.: As above

cc: Mr. Hollis P. Glenn

Mr. W. Dallas Strickland, Agent for Mr. Glenn